

REMARKS

Claims 123-167 and 169-171 are pending in the application. Applicants acknowledge with appreciation the allowance of claims 123-127, 129-154, and 156-160 and the recognition of allowable subject matter in claims 128, 155, 162, and 163. Reexamination and reconsideration of claims 128, 155, 161-167 and 169-171 are respectfully requested.

Regarding German Patent No. 7606741 that was listed on the IDS statement without attaching the same, included herewith is the German Patent along with a translation of the reference. Applicants apologize for this oversight. Additionally, Applicants would appreciate consideration of the German Patent by the Examiner by reviewing the same and listing it on a PTO-1892 form.

Claims 128, 155, and 169 were objected to for informalities. Claims 128, 155, and 169 were amended. Withdrawal of the objection to claims 128, 155, and 169 is respectfully requested.

Claims 161, 165-167, and 169-171 were rejected under 35 U.S.C. sec. 103(a) applying U.S. Pat. No. 4,896,997 ('997) in view of U.S. Pat. No. 4,437,789 ('789). The '997 patent requires trenching a relatively wide path into the earth in order to bury a cable and sheath assembly deep within the earth using a tractor and plow. See Fig. 1 and the Abstract of the '997 patent. Likewise, the '789 patent requires a plow that buries a cable within the earth. See Fig. 1 and the Abstract of the '789 patent. Clearly, the objective evidence of record shows that the '997 and '789 patents teach burying a cable in the earth using a plow. By way of example, the hatching used in Figs. 1 and 5 of the '997 patent and Figs. 1 and 8 of the '789 patents clearly depict a cable that is plowed into the earth. See section 608.02 of the MPEP for hatching patterns of earth. For a patent to be applicable under sec. 103(a), the teaching must, *inter alia*, expressly or inherently, teach, disclose, or suggest each and every feature of the claimed invention. Additionally, motivation

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and suggestion to combine the patents must be present.

It is respectfully submitted that the applied art, taken alone or in combination with the other art of record, does not implicitly or expressly teach, disclose, or otherwise suggest all of the features of amended claim 161. Moreover, the amendment of claim 161 is not an admission that the art of record teaches, discloses, or otherwise suggests the features of the claim. Rather, claim 161 is being amended to claim the proper scope of Applicant's invention as explained below.

First, the skilled artisan would have understood that both the '997 patent and the '789 patent require relatively wide and deep trenches formed by a plow in the earth; rather, than a laying channel formed in a solid surface as defined by the present invention. For instance, the '789 patent teaches that a specific object of the invention is a hardened sheath material for protection of the cable from rodent attack. See the '789 patent at Col. 1, ll. 54-62. The skilled artisan would have understood that rodents would not be an issue in a solid surface as defined in the present application as reproduced below because rodents are unlikely to burrow into a solid surface as defined by the present invention since it is too hard. Moreover, the '789 patent states that "[u]nderground cable-laying is a well-established art that is currently implemented by tractor vehicles or tractor-drawn vehicles which drag an earth plow at desired cable-burial depth..." See the '789 patent at Col. 1, ll. 9-15. It is beyond refute that the '997 and '789 patents merely teach trenching in the earth using a plow.

Second, the skilled artisan would have understood that trenching of the '997 and '789 patents using a plow to trench a solid surface, as asserted in the rejection, would severely damage a solid surface such as asphalt, concrete, a paved surface, curbstone, and stone slab. In other words, the purported modification of the references for trenching a solid

surface using an earth plow would degrade the solid surface rendering unsuitable for applications such as automobile traffic. Furthermore, it would be extremely difficult to pull a plow through a solid surface as defined in the present invention. Moreover, the plows would most likely be easily destroyed by such an operation.

Third, the skilled artisan would have understood the scope of the invention and the meaning of a solid surface by reading the present application.

Specifically, at page 23 the present application recites the following:

Advantages of the process according to the development of the invention may particularly be seen in that it is now possible to produce laying channels in solid surfaces such as asphalt and concrete, road surfaces, curbstones or stone slabs by means of a laying unit in which the cutting width can be set to the respective diameter of the minicable or microcable used.

In other words, the present invention gives several examples of a solid surface that can have a laying channel. Moreover, from this recited list the skilled artisan would have understood other equivalents of solid surfaces having laying channels are possible with the concepts of the present invention. For instance, cement or suitable mixtures thereof can have laying channels according to the concepts of the present invention. Additionally, the present invention contemplates a suitable width for the channel based upon the diameter of the cable used, which may vary. Clearly, the references applied in the Office Action do not teach, disclose, or otherwise suggest each and every feature of amended claim 161. For at least the reasons stated, the withdrawal of the sec. 103(a) rejection of claims 161 is warranted and is respectfully requested.

Additionally, in the last Office Action, claim 164 was rejected under 35 U.S.C. sec. 103(a) applying the '997 and '789 patents in view of U.S. Pat. No. 3,219,368 ('368). For at least

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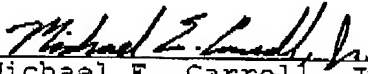
the reasons stated above with respect to claim 161, withdrawal of the sec. 103(a) rejection of claim 164 is warranted and is respectfully requested.

No fees are believed due in connection with this Reply. If any fees are due in connection with this Reply, please charge any fees, or credit any overpayment, to Deposit Account Number 50-0425.

Allowance of all pending claims is believed to be warranted and is respectfully requested.

The Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,


Michael E. Carroll, Jr.
Patent Attorney
Reg. No. 46,602
P.O. Box 489
Hickory, N. C. 28603
Telephone: 828/901-6725

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